

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 765**  
**94TH GENERAL ASSEMBLY**

Reported from the Committee on Local Government April 30, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3074L.05C

**AN ACT**

To repeal sections 72.080 and 311.060, RSMo, and to enact in lieu thereof twelve new sections relating to political subdivisions, with penalty provisions and an emergency clause for a certain section.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 72.080 and 311.060, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 72.080, 190.450, 190.451, 311.060, 311.489, 407.311, 573.525, 573.528, 573.531, 573.534, 573.537, and 573.540, to read as follows:

72.080. 1. [Notwithstanding any provision of law to the contrary, and as an alternative to, and not in lieu of, the procedure established in section 80.020, RSMo,] Any unincorporated city, town, [village,] or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city[, town, or village] of the class to which its population would entitle it pursuant to this chapter, and be incorporated pursuant to the law for the government of cities[, towns, or villages] of that class, in the following manner:

[(1)] Whenever a number of voters equal to fifteen percent of the [registered voters] **votes cast in the last gubernatorial election** in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city, town, [village,] or area is situated, such petition shall describe, by metes and bounds, the area to be incorporated and be accompanied by a plat thereof, shall state the approximate population and the assessed valuation

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 of all real and personal property in the area and shall state facts showing that the proposed city[,  
13 town, or village, if such village has at least one hundred inhabitants residing in it,] shall have the  
14 ability to furnish normal municipal services within a reasonable time after its incorporation is  
15 to become effective and praying that the question be submitted to determine if it may be  
16 incorporated];

17 (2) The governing body shall submit the question to the voters if it is satisfied the  
18 number of voters signing such petition is equal to fifteen percent of the registered voters in the  
19 area proposed to be incorporated.

20 As used in this section, "village" means any small group or assemblage of houses in an  
21 unincorporated area, being generally less than in a town or city, or any small group or  
22 assemblages of houses or buildings built for dwelling or for business, or both, in an  
23 unincorporated area, regardless of whether they are situated upon regularly laid out streets or  
24 alleys dedicated to public use, having no minimum number of registered voters in the area, and  
25 without regard to the existence of churches, parks, schools, or commercial establishments in that  
26 area or whether the proposed village is devoted to community purposes]. **If the governing body  
27 shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last  
28 gubernatorial election in the area proposed to be incorporated have signed such petition,  
29 the governing body shall submit the question to the voters.**

30 2. The [governing body] **county** may make changes in the petition to correct technical  
31 errors or to redefine the metes and bounds of the area to be incorporated to reflect other  
32 boundary changes occurring within six months prior to the time of filing the petition. Petitions  
33 submitted by proposing agents may be submitted with exclusions for the signatures collected in  
34 areas originally included in the proposal but subsequently annexed or incorporated separately  
35 as a city, town or village, although the governing body shall be satisfied as to the sufficiency of  
36 the signatures for the final proposed area. If a majority of the voters voting on the question vote  
37 for incorporation, the governing body shall declare such city, town, [village,] or other area  
38 incorporated, designating in such order the metes and bounds thereof, and thenceforth the  
39 inhabitants within such bounds shall be a body politic and incorporate, by the name and style  
40 of "the city of .....", **or** "the town of .....", ["the village of  
41 ....."] **and** the first officers of such city[, **or** town[, or village] shall be  
42 designated by the order of the governing body, who shall hold their offices until the next  
43 municipal election and until their successors shall be duly elected and qualified. [The city, town,  
44 or village shall have perpetual succession, unless disincorporated; may sue and be sued; may  
45 plead and be impleaded; may defend and be defended in all courts and in all actions, pleas, and  
46 matters whatsoever; may grant, purchase, hold, and receive property, real and personal, within  
47 such place and no other, burial grounds and cemeteries excepted; and may lease, sell, and

48 dispose of such property for the benefit of the city, town, or village; and may have a common  
49 seal, and alter such seal at pleasure.] The county shall pay the costs of the election.

50         3. In any county with a charter form of government where fifty or more cities, towns and  
51 villages have been incorporated, an unincorporated city, town or other area of the state shall not  
52 be incorporated except as provided in sections 72.400 to 72.420.

53         4. Any unincorporated area with a private eighteen-hole golf course community and with  
54 at least a one hundred acre lake located within any county of the first classification with more  
55 than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may  
56 incorporate as a city of the class to which its population would entitle it pursuant to this chapter  
57 notwithstanding any proposed annexation of the unincorporated area by any city of the third or  
58 fourth classification or any home rule city with more than four hundred thousand inhabitants and  
59 located in more than one county. If any city of the third or fourth classification or any home rule  
60 city with more than four hundred thousand inhabitants and located in more than one county  
61 proposes annexation by ordinance or resolution of any unincorporated area as defined in this  
62 subsection, no such annexation shall become effective until and only after a majority of the  
63 qualified voters in the unincorporated area proposed to be incorporated fail to approve or oppose  
64 the proposed incorporation by a majority vote in the election described in subsection 2 of this  
65 section.

66         5. Prior to the election described in subsection 2 of this section, if the owner or owners  
67 of either the majority of the commercial or the majority of the agricultural classification of real  
68 property in the proposed area to be incorporated object to such incorporation, such owner or  
69 owners may file an action in the circuit court of the county in which such unincorporated area  
70 is situated, pursuant to chapter 527, RSMo, praying for a declaratory judgment requesting that  
71 such incorporation be declared unreasonable by the court. As used in this subsection, a  
72 "majority of the commercial or agricultural classification" means a majority as determined by  
73 the assessed valuation of the tracts of real property in either classification to be determined by  
74 the assessments made according to chapter 137, RSMo. The petition in such action shall state  
75 facts showing that such incorporation including the real property owned by the petitioners is not  
76 reasonable based on the same criteria as specified in subsection 3 of section 72.403 and is not  
77 necessary to the proper development of the city or town. If the circuit court finds that such  
78 inclusion is not reasonable and necessary, it may enjoin the incorporation or require the petition  
79 requesting the incorporation to be resubmitted excluding all or part of the property of the  
80 petitioners from the proposed incorporation.

81         **6. Any village incorporated under this section in any county with a charter form**  
82 **of government or any county of the first classification after August 28, 2007, and before**  
83 **August 28, 2008, shall be subject to and shall comply with all county building codes.**

**190.450. For the purpose of funding wireless enhanced 911 service, the governing body of any county with a charter form of government or any county of the first classification may impose a fee on every wireless number from any wireless device capable of accessing the 911 system operated within such county, the revenue generated therefrom to be deposited in a fund which shall be used only by the police department for 911 equipment, personnel, training, and related services. The fee shall not exceed seventy-five cents per month per wireless telephone number, and shall be imposed subject to approval by a majority of the voters casting ballots in an election held under section 190.451.**

**190.451. 1. The governing body of any county with a charter form of government or any county of the first classification may call for a ballot measure to be placed before the voters at any general or special election for the purpose of ratifying the fee imposed by the county under section 190.450. The ballot shall contain substantially the following language:**

**"Shall (name of county) impose a fee of (amount up to seventy-five cents per wireless number per month) on every wireless telephone number capable of accessing the 911 system operated by (name of county), the revenue from which shall be deposited in a special fund which may be used by the police department only for 911 equipment, personnel, training, and related services:**

☐ YES

☐ NO

**If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".**

**2. The governing body of a county calling for an election under this section may call for an election for the purposes specified in this section at subsequent general or special elections until the ballot measure is approved.**

**3. If a majority of the votes cast on the ballot measure by the qualified voters voting thereon are in favor of such measure, the governing body of the county calling for the election is authorized to impose the fee in any amount up to the amount approved by the voters, and is further authorized to establish a special fund for use consistent with this section.**

**311.060. 1. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village; and no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the**

8 provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who  
9 employs in his business as such dealer, any person whose license has been revoked or who has  
10 been convicted of violating such law since the date aforesaid; provided, that nothing in this  
11 section contained shall prevent the issuance of licenses to nonresidents of Missouri or foreign  
12 corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the  
13 sale of intoxicating liquors to, by or through a duly licensed wholesaler, within this state.

14 2. (1) No person, partnership or corporation shall be qualified for a license under this  
15 law if such person, any member of such partnership, or such corporation, or any officer, director,  
16 or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of  
17 the stock of such corporation, or other financial interest therein, or ten percent or more of the  
18 interest in the business for which the person, partnership or corporation is licensed, or any  
19 person employed in the business licensed under this law shall have had a license revoked under  
20 this law or shall have been convicted of violating the provisions of any law applicable to the  
21 manufacture or sale of intoxicating liquor since the ratification of the twenty-first amendment  
22 to the Constitution of the United States, or shall not be a person of good moral character.

23 (2) No license issued under this chapter or chapter 312, RSMo, shall be denied,  
24 suspended, revoked or otherwise affected based solely on the fact that an employee of the  
25 licensee:

26 (a) Has [been convicted of] a **single felony conviction** unrelated to the manufacture or  
27 sale of intoxicating liquor; or

28 (b) **Has two or more felony convictions unrelated to the sale of intoxicating liquor**  
29 so long as any such employee does not directly participate in retail sales of intoxicating liquor.

30

31 Each employer shall report the identity of any employee convicted of a felony to the division of  
32 liquor control. The division of liquor control shall promulgate rules to enforce the provisions  
33 of this subdivision. **Such rules may include provisions regarding categories of offenders and**  
34 **offenses and the types of employment and activities within licensed establishments in which**  
35 **different categories of offenders may engage.**

36 (3) No wholesaler license shall be issued to a corporation for the sale of intoxicating  
37 liquor containing alcohol in excess of five percent by weight, except to a resident corporation  
38 as defined in this section.

39 3. A "resident corporation" is defined to be a corporation incorporated under the laws  
40 of this state, all the officers and directors of which, and all the stockholders, who legally and  
41 beneficially own or control sixty percent or more of the stock in amount and in voting rights,  
42 shall be qualified legal voters and taxpaying citizens of the county and municipality in which  
43 they reside and who shall have been bona fide residents of the state for a period of three years  
44 continuously immediately prior to the date of filing of application for a license, provided that

45 a stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall  
46 own, legally and beneficially, at least sixty percent of all the financial interest in the business  
47 to be licensed under this law; provided, that no corporation, licensed under the provisions of this  
48 law on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed  
49 on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of  
50 Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new  
51 requirements herein, except corporations engaged in the manufacture of alcoholic beverages  
52 containing alcohol in excess of five percent by weight, or owned or controlled, directly or  
53 indirectly, by nonresident persons, partnerships or corporations engaged in the manufacture of  
54 alcoholic beverages containing alcohol in excess of five percent by weight.

55 4. The term "financial interest" as used in this chapter is defined to mean all interest,  
56 legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such  
57 interest in the net profits of the enterprise, after the payment of reasonable and necessary  
58 operating business expenses and taxes, including interest in dividends, preferred dividends,  
59 interest and profits, directly or indirectly paid as compensation for, or in consideration of interest  
60 in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned  
61 or otherwise made available to the enterprise, except by way of ordinary commercial credit or  
62 bona fide bank credit not in excess of credit customarily granted by banking institutions, whether  
63 paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any  
64 other form whatsoever.

65 5. The supervisor shall by regulation require all applicants for licenses to file written  
66 statements, under oath, containing the information reasonably required to administer this section.  
67 Statements by applicants for licenses as wholesalers and retailers shall set out, with other  
68 information required, full information concerning the residence of all persons financially  
69 interested in the business to be licensed as required by regulation. All material changes in the  
70 information filed shall be promptly reported to the supervisor.

**311.489. 1. A permit for the sale of intoxicating liquor as defined in section 311.020,  
2 and nonintoxicating beer as defined in section 312.010, RSMo, for consumption on  
3 premises where sold, and to conduct specified festival events, may be issued to any festival  
4 district, located in any home rule city with more than four hundred thousand inhabitants  
5 and located in more than one county, that includes three or more businesses that are  
6 licensed bars, nightclubs, restaurants, or other entertainment venues and a common area  
7 that is closed to vehicle traffic, provided that the permit is held by a promotional  
8 association. A "promotional association" is defined as an entity formed by property  
9 owners who own or operate fifty percent or more of the square feet of bars, nightclubs,  
10 restaurants, and other entertainment venues located within the proposed district.**

11           **2. The promotional association may obtain a permit if the promotional association**  
12 **submits a plan to the governing body of the city containing basic information, which**  
13 **includes the legal description of the district and the common area within which such**  
14 **festivals shall be held, the name, address, and responsible person of each business**  
15 **participating in the promotional association, the specific calendar of events for the district**  
16 **which shall not exceed twenty such events and shall include the dates and times of any such**  
17 **events, a description of the proposed festival activities including any proposed public street**  
18 **closures if applicable, proof of adequate insurance, and a detailed description of security**  
19 **for any proposed festivals. Such permit shall cost three hundred dollars per year. Such**  
20 **plan may be amended during the year subject to governing municipality approval.**

21           **3. If the plan is approved, the promotional association may conduct the events**  
22 **described in the plan and may sell liquor for consumption within the district common**  
23 **areas between 9:00 a.m. and 1:00 a.m. on Monday through Saturday and between 11:00**  
24 **a.m. and 12:00 a.m. on Sunday and in accordance with any additional time constraints**  
25 **stated in such plan. Such promotional association may permit customers to leave an**  
26 **establishment within the district after purchasing an alcoholic beverage and consume the**  
27 **beverage in the district common areas or another licensed establishment within the**  
28 **district. No person shall be allowed to take any alcoholic beverage outside the boundaries**  
29 **of the festival district.**

30           **4. If participating in a promotional association event, every bar, nightclub,**  
31 **restaurant, promotional association, or other entertainment venue that serves alcoholic**  
32 **beverages within the festival district shall use disposable paper, plastic, or foam cups or**  
33 **other light-weight containers for all alcoholic beverages that the bar, nightclub, restaurant,**  
34 **promotional association, or other entertainment venue sells within the festival district**  
35 **boundaries for consumption in the district common area.**

36           **5. If minors are allowed to enter the festival district, which shall be clearly stated**  
37 **in the festival district's approved plan, the applicant shall ensure that such minors are**  
38 **easily distinguished from persons of legal age and any approved plan shall include the**  
39 **method by which this provision shall be satisfied.**

40           **6. The holder of the permit is solely responsible for any alcohol violations occurring**  
41 **within the common areas. For any violation of this chapter or of any rule or regulation of**  
42 **the supervisor of alcohol and tobacco control, the promotional association may be assessed**  
43 **a civil fine of not more than five thousand dollars. If a promotional association is found**  
44 **to be responsible for such violations at three separate events, then such promotional**  
45 **association shall not seek approval for subsequent plans without the prior written consent**  
46 **of the supervisor of alcohol and tobacco control. The promotional association's then**  
47 **current plan shall be deemed terminated, and the businesses participating in the**

48 promotional association's events shall not participate in activities permitted by subsection  
49 3 of this section without prior written consent from the supervisor of alcohol and tobacco  
50 control.

407.311. 1. As used in this section, the following terms shall mean:

2 (1) "Local telephone directory", a publication listing telephone numbers for  
3 various businesses in a certain geographic area and distributed free of charge to some or  
4 all telephone subscribers in that area;

5 (2) "Local telephone number", a telephone number that can be dialed without  
6 incurring long distance charges from telephones located within the area covered by the  
7 local telephone directory in which the number is listed. The term shall not include long  
8 distance numbers, toll-free numbers, or nine hundred exchange numbers listed in the local  
9 telephone directory;

10 (3) "Person", an individual, partnership, limited liability partnership, corporation,  
11 or limited liability corporation.

12 2. No person shall misrepresent the geographic location of the supplier of a service  
13 or product by listing a fictitious business name or an assumed business name in a local  
14 telephone directory if:

15 (1) The name misrepresents the geographic location of the supplier;

16 (2) The listing fails to identify the address, including the state of the business of the  
17 supplier;

18 (3) Calls to the local telephone number are routinely forwarded or otherwise  
19 transferred to a business location that is outside the calling area covered by the local  
20 telephone directory; and

21 (4) The business location of the supplier is located in a county that is not contiguous  
22 to a county in the calling area covered by the local telephone directory.

23 3. No person shall list a fictitious business name or assumed business name in a  
24 directory assistance database if:

25 (1) The name misrepresents the geographic location of the supplier;

26 (2) Calls to the local telephone number are routinely forwarded or otherwise  
27 transferred to a business location that is outside the local calling area; and

28 (3) The business location of the supplier is located in a county that is not contiguous  
29 to a county in the local calling area.

30 4. For purposes of this section, a telephone company or other provider of a  
31 telephone directory or directory assistance service or its officer or agent is immune from  
32 liability for publishing the listing of a fictitious business name or assumed business name  
33 of a supplier in its directory or directory assistance database unless the telephone company



34 or other provider of a telephone or directory assistance service is the same person as the  
35 supplier of the services or products who has committed the deceptive act.

36 5. Any person who violates this section shall be prohibited from having its name  
37 listed in the next published local telephone directory unless such person provides an actual  
38 local address.

39 6. Any person who violates the provisions of this section shall be guilty of a class  
40 B misdemeanor.

573.525. 1. It is the purpose of sections 573.525 to 573.537 to regulate sexually  
2 oriented businesses in order to promote the health, safety, and general welfare of the  
3 citizens of this state, and to establish reasonable and uniform regulations to prevent the  
4 deleterious secondary effects of sexually oriented businesses within the state. The  
5 provisions of sections 573.525 to 573.537 have neither the purpose nor effect of imposing  
6 a limitation or restriction on the content or reasonable access to any communicative  
7 materials, including sexually oriented materials. Similarly, it is neither the intent nor  
8 effect of sections 573.525 to 573.537 to restrict or deny access by adults to sexually oriented  
9 materials protected by the First Amendment, or to deny access by the distributors and  
10 exhibitors of sexually oriented entertainment to their intended market. Neither is it the  
11 intent nor effect of sections 573.525 to 573.537 to condone or legitimize the distribution of  
12 obscene material.

13 2. The general assembly finds that:

14 (1) Sexually oriented businesses, as a category of commercial enterprises, are  
15 associated with a wide variety of adverse secondary effects, including but not limited to  
16 personal and property crimes, prostitution, potential spread of disease, lewdness, public  
17 indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding  
18 properties, urban blight, litter, and sexual assault and exploitation;

19 (2) Sexually oriented businesses should be separated from sensitive land uses to  
20 minimize the impact of their secondary effects upon such uses, and should be separated  
21 from other sexually oriented businesses, to minimize the secondary effects associated with  
22 such uses and to prevent an unnecessary concentration of sexually oriented businesses in  
23 one area;

24 (3) Each of the foregoing negative secondary effects constitutes a harm which the  
25 state has a substantial interest in preventing and/or abating. Such substantial government  
26 interest in preventing secondary effects, which is the state's rationale for sections 573.525  
27 to 573.537, exists independent of any comparative analysis between sexually oriented and  
28 nonsexually oriented businesses. Additionally, the state's interest in regulating sexually  
29 oriented businesses extends to preventing future secondary effects of current or future  
30 sexually oriented businesses that may locate in the state.

573.528. For purposes of sections 573.525 to 573.537, the following terms shall  
2 mean:

3 (1) "Adult bookstore" or "adult video store", a commercial establishment which,  
4 as one of its principal business activities, offers for sale or rental for any form of  
5 consideration any one or more of the following: books, magazines, periodicals, or other  
6 printed matter, or photographs, films, motion pictures, video cassettes, compact discs,  
7 digital video discs, slides, or other visual representations which are characterized by their  
8 emphasis upon the display of specified sexual activities or specified anatomical areas. A  
9 "principal business activity" exists where the commercial establishment:

10 (a) Has a substantial portion of its displayed merchandise which consists of such  
11 items; or

12 (b) Has a substantial portion of the wholesale value of its displayed merchandise  
13 which consists of such items; or

14 (c) Has a substantial portion of the retail value of its displayed merchandise which  
15 consists of such items; or

16 (d) Derives a substantial portion of its revenues from the sale or rental, for any  
17 form of consideration of such items; or

18 (e) Maintains a substantial section of its interior business space for the sale or  
19 rental of such items; or

20 (f) Maintains an adult arcade. "Adult arcade" means any place to which the public  
21 is permitted or invited wherein coin-operated or slug-operated or electronically,  
22 electrically, or mechanically controlled still or motion picture machines, projectors, or  
23 other image-producing devices are regularly maintained to show images to five or fewer  
24 persons per machine at any one time, and where the images so displayed are characterized  
25 by their emphasis upon matter exhibiting specified sexual activities or specified anatomical  
26 areas;

27 (2) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other  
28 commercial establishment, regardless of whether alcoholic beverages are served, which  
29 regularly features persons who appear semi-nude;

30 (3) "Adult motion picture theater", a commercial establishment where films,  
31 motion pictures, video cassettes, slides, or similar photographic reproductions which are  
32 characterized by their emphasis upon the display of specified sexual activities or specified  
33 anatomical areas are regularly shown to more than five persons for any form of  
34 consideration;

35 (4) "Characterized by", describing the essential character or dominant theme of  
36 an item. As applied in sections 573.525 to 573.537, no business shall be classified as a

37 sexually oriented business by virtue of showing, selling, or renting materials rated NC-17  
38 or R by the Motion Picture Association of America;

39 (5) "Employ", "employee" or "employment", describe and pertain to any person  
40 who performs any service on the premises of a sexually oriented business, on a full-time,  
41 part-time, or contract basis, whether or not the person is denominated an employee,  
42 independent contractor, agent, or otherwise. Employee does not include a person  
43 exclusively on the premises for repair or maintenance of the premises or for the delivery  
44 of goods to the premises;

45 (6) "Establish" or "establishment", any of the following:

46 (a) The opening or commencement of any sexually oriented business as a new  
47 business;

48 (b) The conversion of an existing business, whether or not a sexually oriented  
49 business, to any sexually oriented business; or

50 (c) The addition of any sexually oriented business to any other existing sexually  
51 oriented business;

52 (7) "Influential interest", any of the following:

53 (a) The actual power to operate the sexually oriented business or control the  
54 operation, management, or policies of the sexually oriented business or legal entity which  
55 operates the sexually oriented business;

56 (b) Ownership of a financial interest of thirty percent or more of a business or of  
57 any class of voting securities of a business; or

58 (c) Holding an office, such as president, vice president, secretary, treasurer,  
59 managing member, or managing director, in a legal entity which operates the sexually  
60 oriented business;

61 (8) "Nudity" or "state of nudity", the showing of the human male or female  
62 genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque  
63 covering, or the showing of the female breast with less than a fully opaque covering of any  
64 part of the nipple or areola;

65 (9) "Operator", any person on the premises of a sexually oriented business who  
66 causes the business to function or who puts or keeps in operation the business or who is  
67 authorized to manage the business or exercise overall operational control of the business  
68 premises. A person may be found to be operating or causing to be operated a sexually  
69 oriented business whether or not such person is an owner, part owner, or licensee of the  
70 business;

71 (10) "Premises", the real property upon which the sexually oriented business is  
72 located, and all appurtenances thereto and buildings thereon, including but not limited to  
73 the sexually oriented business, the grounds, private walkways, and parking lots and/or

74 parking garages adjacent thereto, under the ownership, control, or supervision of the  
75 licensee, as described in the application for a sexually oriented business license;

76 (11) "Regularly", the consistent and repeated doing of the act so described;

77 (12) "Semi-nude" or "state of semi-nudity", the showing of the female breast below  
78 a horizontal line across the top of the areola and extending across the width of the breast  
79 at such point, or the showing of the male or female buttocks. Such definition includes the  
80 lower portion of the human female breast, but shall not include any portion of the cleavage  
81 of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar  
82 wearing apparel provided the areola is not exposed in whole or in part;

83 (13) "Semi-nude model studio", a place where persons regularly appear in a state  
84 of semi-nudity for money or any form of consideration in order to be observed, sketched,  
85 drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such  
86 definition does not apply to any place where persons appearing in a state of semi-nudity  
87 did so in a modeling class operated:

88 (a) By a college, junior college, or university supported entirely or partly by  
89 taxation;

90 (b) By a private college or university which maintains and operates educational  
91 programs in which credits are transferable to a college, junior college, or university  
92 supported entirely or partly by taxation; or

93 (c) In a structure:

94 a. Which has no sign visible from the exterior of the structure and no other  
95 advertising that indicates a semi-nude person is available for viewing; and

96 b. Where, in order to participate in a class, a student must enroll at least three days  
97 in advance of the class;

98 (14) "Sexual encounter center", a business or commercial enterprise that, as one  
99 of its principal purposes, purports to offer for any form of consideration, physical contact  
100 in the form of wrestling or tumbling between persons of the opposite sex when one or more  
101 of the persons is semi-nude;

102 (15) "Sexually oriented business", an adult bookstore or adult video store, an adult  
103 cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter  
104 center;

105 (16) "Specified anatomical areas":

106 (a) Less than completely and opaquely covered: human genitals, pubic region,  
107 buttock, and female breast below a point immediately above the top of the areola; and

108 (b) Human male genitals in a discernibly turgid state, even if completely and  
109 opaquely covered;

- 110           (17) "Specified criminal act", any of the following specified offenses for which less  
111 than eight years has elapsed since the date of conviction or the date of release from  
112 confinement for the conviction, whichever is later:
- 113           (a) Rape and sexual assault offenses;
  - 114           (b) Sexual offenses involving minors;
  - 115           (c) Offenses involving prostitution;
  - 116           (d) Obscenity offenses;
  - 117           (e) Offenses involving money laundering;
  - 118           (f) Offenses involving tax evasion;
  - 119           (g) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in  
120 paragraphs (a) to (f) of this subdivision; or
  - 121           (h) Any offense committed in another jurisdiction which if committed in this state  
122 would have constituted an offense listed in paragraphs (a) to (g) of this subdivision;
- 123           (18) "Specified sexual activity", any of the following:
- 124           (a) Intercourse, oral copulation, masturbation, or sodomy; or
  - 125           (b) Excretory functions as a part of or in connection with any of the activities  
126 describe in paragraph (a) of this subdivision;
- 127           (19) "Substantial", at least thirty percent of the item or items so modified;
- 128           (20) "Viewing room", the room, booth, or area where a patron of a sexually  
129 oriented business would ordinarily be positioned while watching a film, video cassette,  
130 digital video disc, or other video reproduction.

2           573.531. 1. No person shall establish a sexually oriented business within one  
3 thousand feet of any preexisting primary or secondary school, house of worship, state-  
4 licensed day care facility, public library, public park, residence, or other sexually oriented  
5 business. This subsection shall not apply to any sexually oriented business lawfully  
6 established prior to the effective date of sections 573.525 to 573.537. For purposes of this  
7 subsection, measurements shall be made in a straight line, without regard to intervening  
8 structures or objects, from the closest portion of the parcel containing the sexually oriented  
9 business to the closest portion of the parcel containing the preexisting primary or  
10 secondary school, house of worship, state-licensed day care facility, public library, public  
11 park, residence, or other sexually oriented business.

12           2. No person shall establish a sexually oriented business if a person with an  
13 influential interest in the sexually oriented business has been convicted of or pled guilty or  
14 nolo contendere to a specified criminal act.

15           3. No person shall knowingly or intentionally, in a sexually oriented business,  
appear in a state of nudity.

16           **4. No employee shall knowingly or intentionally, in a sexually oriented business,**  
17 **appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain**  
18 **on a fixed stage at least six feet from all patrons and at least eighteen inches from the floor**  
19 **in a room of at least six hundred square feet.**

20           **5. No employee who appears in a semi-nude condition in a sexually oriented**  
21 **business shall knowingly or intentionally touch a patron or the clothing of a patron in a**  
22 **sexually oriented business.**

23           **6. A sexually oriented business which exhibits on the premises, through any**  
24 **mechanical or electronic image-producing device, a film, video cassette, digital video disc,**  
25 **or other video reproduction characterized by an emphasis on the display of specified sexual**  
26 **activities or specified anatomical areas shall comply with the following requirements:**

27           **(1) The interior of the premises shall be configured in such a manner that there is**  
28 **an unobstructed view from an operator's station of every area of the premises, including**  
29 **the interior of each viewing room but excluding restrooms, to which any patron is**  
30 **permitted access for any purpose;**

31           **(2) An operator's station shall not exceed thirty-two square feet of floor area;**

32           **(3) If the premises has two or more operator's stations designated, the interior of**  
33 **the premises shall be configured in such a manner that there is an unobstructed view of**  
34 **each area of the premises to which any patron is permitted access for any purpose from**  
35 **at least one of the operator's stations;**

36           **(4) The view required under this subsection shall be by direct line of sight from the**  
37 **operator's station;**

38           **(5) It is the duty of the operator to ensure that at least one employee is on duty and**  
39 **situated in an operator's station at all times that any patron is on the portion of the**  
40 **premises monitored by such operator station; and**

41           **(6) It shall be the duty of the operator and of any employees present on the**  
42 **premises to ensure that the view area specified in this subsection remains unobstructed by**  
43 **any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at**  
44 **all times that any patron is present on the premises.**

45           **7. Sexually oriented businesses that do not have stages or interior configurations**  
46 **which meet at least the minimum requirements of sections 573.525 to 573.537 shall be given**  
47 **one hundred eighty days after the effective date of sections 573.525 to 573.537 to comply**  
48 **with the stage and building requirements of sections 573.525 to 573.537. During such one-**  
49 **hundred-eighty-day period, any employee who appears within view of any patron in a**  
50 **semi-nude condition shall remain, while semi-nude, at least six feet from all patrons.**

51           **8. No operator shall allow or permit a sexually oriented business to be or remain**  
52 **open between the hours of 12:00 midnight and 6:00 a.m. on any day.**

53           **9. No person shall knowingly or intentionally sell, use, or consume alcoholic**  
54 **beverages on the premises of a sexually oriented business.**

55           **10. No person shall knowingly allow a person under the age of eighteen years on**  
56 **the premises of a sexually oriented business.**

**573.534. Sections 573.525 to 573.537 do not impose strict liability. Unless a culpable**  
2 **mental state is otherwise specified herein, a showing of a knowing or reckless mental state**  
3 **is necessary to establish a violation of sections 573.525 to 573.537. Notwithstanding any**  
4 **other provision of law to the contrary, for purposes of sections 573.525 to 573.537, an act**  
5 **by an employee shall be imputed to the sexually oriented business for purposes of finding**  
6 **a violation of sections 573.525 to 573.537 only if an officer, director, or general partner, or**  
7 **a person who managed, supervised, or controlled the operation of the business premises**  
8 **knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to**  
9 **liability that the person to whom liability is imputed was powerless to prevent the act.**

**573.537. 1. Any person, business, or entity violating or refusing to comply with any**  
2 **provision of sections 573.525 to 573.537 shall, upon conviction, be deemed guilty of a**  
3 **misdemeanor and shall be punished by imposition of a fine not to exceed five hundred**  
4 **dollars or by imprisonment for a period not to exceed ninety days, or both. Each day that**  
5 **a violation is permitted to exist or occur, and each separate occurrence shall constitute a**  
6 **separate offense.**

7           **2. Any premises, building, dwelling, or other structure in which a sexually oriented**  
8 **business is repeatedly operated or maintained in violation of sections 573.525 to 573.537**  
9 **shall constitute a public nuisance and shall be subject to civil abatement proceedings**  
10 **initiated by the state in a court of competent jurisdiction. Each day that a violation is**  
11 **permitted to exist or occur shall constitute a separate operation or maintenance of the**  
12 **violation.**

13           **3. Notwithstanding the provisions of this section, the state may employ any remedy**  
14 **available at law or in equity to prevent or remedy a violation of any provision of sections**  
15 **573.525 to 573.537.**

**573.540. Nothing in sections 573.525 to 573.537 shall preempt or prevent any**  
2 **political subdivision in this state from maintaining, enacting, or enforcing any local**  
3 **ordinance, rule, regulation, resolution, or similar law concerning the regulation of sexually**  
4 **oriented businesses or similar adult oriented businesses.**

          Section B. Because immediate action is necessary to protect the rights of Missouri's  
2 citizens to choose their form of government, the repeal and reenactment of section 72.080 of  
3 section A of this act is deemed necessary for the immediate preservation of the public health,  
4 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning

5 of the constitution, and the repeal and reenactment of section 72.080 of section A of this act shall  
6 be in full force and effect upon its passage and approval.

✓

Unofficial

Bill

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